death. These circumstances bring this case within the principle laid down in *Admiralty Commissioners* v. *S. S. Volute*,[21] followed in *Williams* v. *Sykes and Harrison, Ltd.*,[22] and in *Rushton* v. *Turner Brothers Asbestos Co., Ltd.*[23] In the last case the plaintiff was employed by the defendants to operate a fibre crushing machine the grooves of which had to be cleaned from time to time. The machine had to be stopped when the cleaning was in progress. The plaintiff was instructed never to attempt to clean such grooves when the machine was in motion. One afternoon when a groove of the machine required cleaning, the plaintiff put his hand into the machine without stopping it and his hand was crushed. It was held that although the defendants were in breach of their statutory duty under section 14(1) of the Factories Act, 1937, in that they had failed to fence a dangerous part of the machinery, they were not liable in damages to the plaintiff because, as Ashworth J. said at page 521 of the plaintiff:—

"....he must have known that the machine was in motion....and he must have known, and I so find, that he was placing his hand in a position of great danger when he deliberately inserted it into the moving groove. I find....that the cause of this accident, in the sense of the operative act and effective cause, is wholly to be attributed to him."

In the instant case I find that the cause of the accident in the sense of the operative act and effective cause was solely the deceased's own act in tampering with the defendants' installation.

The claim is dismissed with costs.

Claim dismissed.

Solicitors: *Allen, Gledhill & Ball*; *Shearn, Delamore & Co.*

RE DINGLE FOOT

[O.C.J. (Ong J.) August 18, 1964]

[K.L. — Petition for Admission No. 22 of 1964]

Advocates and Solicitors — Admission — Dispensing with reading in chambers — Shortening of notice by 79 days — Discretion — Public interest — Advocates & Solicitors Ordinance, 1947, ss. 5, 7, 8.

This was an application by Mr. Dingle Foot Q.C. for admission and enrolment as an advocate and solicitor of the High Court in Malaya. The application was due to be heard on August 14, 1964 but proceedings on the petition were stayed on that date under section 7(4) of the Advocates and Solicitors Ordinance, for half a day, with liberty to the petitioner at the expiration of such period to make a fresh application under section 7(2). Application was then made to restore the petition under section 7(5) of the said Ordinance.

The case for which the applicant has been retained was stated by the applicant (and not challenged at the hearing) in his affidavit to be one of great public importance involving issues on the interpretation of statutes, the power of the court to grant declarations, the provisions of the constitution and trade union law, in all of which he has had long experience: The applicant had been in active practice in various Commonwealth countries and has been regularly engaged in the Judicial Committee of the Privy Council since 1945 and that he had been called to the Bar or admitted as a solicitor or practitioner in Ghana, Ceylon, Northern Rhodesia, Sierra Leone, India and Bahrain and had also regularly appeared in the Courts of Kenya, Uganda, Tanganyika, Nyasaland and Pakistan. The applicant had appeared in the Privy Council for many years in connection with appeals from Malaya both civil and criminal.

The questions before the court were whether the statutorily required period of reading in chambers could be dispensed and the statutory six months notice under section 5(2) may properly be shortened by 79 days.

Held: (1) the applicant's eminence at the Bar was too well known for the court to pause and hesitate over dispensing *in toto* with the statutorily required period of reading in chambers;

(2) the statutory six months notice may properly be shortened by 79 days.

Per Ong J.: "I think I should be affecting an unduly tender regard for imaginary and fanciful risks to which I may expose public interest were I to state that I feel myself unable to anticipate by 79 days the allowing of an application which I should be bound to allow on November 6, 1964....I might mention, in conclusion, that if it is feared that this case should prove an unfortunate precedent opening the floodgates to all sorts of would-be legal practitioners from various parts of the Commonwealth knocking at our doors, the remedy is readily to hand by proper amendments of the Ordinance."

PETITION FOR ADMISSION.

P. G. Lim (Miss) for the petitioner.

Au Ah Wah (Senior Federal Council) for the Attorney-General.

Dato' S. M. Yong for the Bar Council.

K. A. Menon for the Bar Committee.

Ong J.: This is an application by Mr. Dingle Foot, Q.C. for admission and enrolment as an advocate and solicitor of the High Court in Malaya. The application was due to be heard on August 14, 1964, but for reasons which need not here be stated, further proceedings on the petition were stayed on that date under section 7(4) of the Advocates and Solicitors Ordinance, for half-a-day, with liberty to the petitioner at the expiration of such period to make a fresh application under section 7(2). The application thus came up before me for hearing on August 17 in the absence of the Honourable the Chief Justice in the Federal Court in Singapore, and under section 7(5) application has been made to restore the petition.

Objections have been made by Senior Federal Counsel, representing the Attorney-General, and by representatives of the Bar Council and the Bar Committee.

Section 5 of the Ordinance governs the admission and enrolment of qualified persons as advocates and solicitors of the High Court. Subsection (3) requires that the petitioner should

have undergone instruction for 6 months in the chambers of a practitioner. Sub-section (2) further requires that notices of the petition shall be posted for a statutory period of 6 months. Both these conditions must be relaxed if this application were to succeed. The court is given discretion to do so by the express provisions of sub-section (5) which reads as follows:

"(5) The court may, on application and on special grounds, one of which may be that the petitioner has been engaged in any part of Her Majesty's dominions in the active practice of his profession after having qualified as a Barrister of England or Northern Ireland (or of Ireland if called before the first day of October, 1921) or as a member of the Faculty of Advocates in Scotland or a solicitor of the Supreme Court of Judicature of England or Northern Ireland (or of Ireland admitted before the first day of October, 1921), or Writer to the Signet or a solicitor in the Colony, to be stated on affidavit or statutory declaration to be filed in court seven clear days before the same is used, by order shorten the period during which the notice referred to in sub-section (2) of this section is required to be posted and may by order shorten or dispense with the period during which the petitioner is required to attend and receive instruction in law in an office or to read in chambers, and may, if it thinks fit, admit and control the petitioner at any time."

The question before me is whether or not I should exercise my discretion under this sub-section. The conditions imposed by section 7(1)(a) and section 8 have both been satisfied. Mr. Foot's eminence at the Bar is too well known for me to pause and hesitate over dispensing *in toto* with the statutorily required period of reading in chambers. It only remains to consider whether the statutory six months' notice under sub-section (2) may properly be shortened by nearly 3 months. The last posting of the notice was on May 5, 1964. One of the "special grounds", as specified in sub-section (5), has clearly been shown in this case. Should I on a question in which I am left a certain measure of discretion withhold the exercise of such discretion merely because the notice should have 79 days more to run?

The case for which Mr. Foot has been retained is stated by him in his affidavit to be one of great public importance involving issues on the interpretation of statutes, the power of the court to grant declarations, the provisions of the Constitution and trade union law, in all of which he has had long experience. I have heard no argument to the contrary nor can I anticipate what may occur or arise at the trial. In this respect, therefore, there would appear to be somewhat exceptional circumstances for the plaintiffs being allowed counsel of their choice. There is, in addition to the fact that Mr. Foot has been in active practice in various Commonwealth countries, this further fact that he had been regularly engaged in the Judicial Committee of the Privy Council since 1945 and that he had been called to the Bar or admitted as a solicitor or practitioner in countries as far-flung as Ghana, Ceylon, Northern Rhodesia, Sierra Leone, India (13 years after India became independent) and Bahrain and he had also regularly appeared in the courts of Kenya, Uganda, Tanganyika, Nyasaland and Pakistan. It may be added that Mr. Foot had appeared in the Privy Council for many years in connection with appeals from Malaya, both civil and criminal. I think I should be affecting an unduly tender regard for imaginary and fanciful risks to which I may expose public interest were I to state that I feel myself unable to anticipate by 79 days the allowing of an application which I should be bound to allow on November 6, 1964.

I might mention, in conclusion, that if it is feared that this case should prove an unfortunate precedent opening the floodgates to all sorts of would-be legal practitioners from various parts of the Commonwealth knocking at our doors, the remedy is readily to hand by proper amendments of the Ordinance.

I would allow the application and make the order prayed for.

Application for admission granted.

SOH TEN SENG & ORS. v. PUBLIC PROSECUTOR

[F.C. (Barakbah Ag.L.P., Ong & Gill JJ.) September 1, 1964]

[K.L. — Federal Court Criminal Appeal No. 29 of 1964]

Criminal Law — Kidnapping — Kidnapping Act, 1961, ss. 3, 10 and 15(1).

Evidence — Telephone conversation — Whether to or in the hearing of police officer not below rank of inspector — Admissibility — Kidnapping Act, 1961 s. 15(1) — Evidence Ordinance, 1950, s. 27

The first three appellants were convicted under section 3(1) of the Kidnapping Act for abducting a boy of nine, for ransom of $50,000 and the 4th appellant was convicted of abetting the others in the commission of the offence. They were all sentenced to imprisonment for life. On appeal against conviction and sentence it was contended *inter alia* that (i) the learned trial judge was wrong in law in admitting evidence of a telephone conversation between a police corporal and the 1st appellant, since such conversation was not to or in the hearing of a police officer not below the rank of an inspector as required by section 15(1) of the said Act (ii) that there was no evidence on record of any statement made by the first appellant which led to the discovery of the abducted boy, without which statement to serve as an explanation, the discovery was not necessarily an incriminating fact.

Held: (1) it was unnecessary to consider whether the telephone conversation was rendered inadmissible by section 15(1) of the Kidnapping Act because such evidence was admissible under section 27 of the Evidence Ordinance, the conversation being information in consequence of which a fact was discovered, namely, the identity of the 1st appellant;